

**SUPPLEMENTAL**  
**EXECUTIVE OFFICER SUMMARY REPORT**  
November 12, 2003

ITEM: 13

SUBJECT: Settlement of liability against Ashby Homes for violation of SWRCB Order No. 99-08-DWQ, Waste Discharge Requirements for discharges of storm water runoff associated with construction activity, Roripaugh Ranch construction site, Temecula, Riverside County. The Regional Board will consider accepting a proposed settlement for the liability. If the Regional Board decides to reject the settlement, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability.

DISCUSSION: On October 29, 2003 the Regional Board conducted an inspection at the construction site in preparation for the Regional Board's consideration of Ashby USA, LLC's (Ashby) proposed settlement of the liability recommended in Complaint No. R9-2003-0227. The inspection documented the lack of an effective combination of rainy season best management practices (BMPs) to reduce sediment from eroding from the site. Based on the inspection, the Executive Officer issued Notice of Violation No. R9-2003-0392 on November 4, 2003 (Supporting Document No. 8), which notified Ashby that the significant lack of compliance with the general construction storm water permit is contrary to commitments made by Ashby and jeopardizes Regional Board acceptance of the proposed settlement. The Executive Officer recommends that the Regional Board not accept the settlement offer.

Consideration of the settlement offer will be moved to the non-consent calendar portion of the November 12, 2003 agenda to provide the Regional Board an opportunity to consider the withdrawal and reissuance of a new Complaint to include the new violations.

As part of their settlement offer submitted in July, Ashby made assertions to the Regional Board that they had taken measures to address all water quality issues on the construction site and pledged to continue to do so at all current and future sites. During an inspection on August 27, 2003, the site was determined to be in

compliance with dry season BMP requirements, which are significantly less stringent than in the rainy season which began on October 1.

October 29, 2003 Inspection Summary

The area of the 800 acre construction site known as the Panhandle, where the violations cited in Complaint No. R9-2003-0227 occurred, had some erosion and sediment controls on the exterior slopes. The top deck area (approximately 150 acres) had no erosion control and lacked adequate sediment control. During the inspection, Ashby indicated it was their intention to use the unpaved, below grade surface streets within the development for sediment retention. In addition, a large post-construction flood control basin currently under construction was intended to be used as a temporary sedimentation basin during this rainy season. However, this basin allows water to flow through without detention and could not serve as effective sediment control as currently designed. Additional erosion and sediment control BMPs must be implemented in the interior areas of the Panhandle to effectively control sediment discharges.

Contiguous with the Panhandle portion of the construction site is another very large area (several hundred acres) which is actively being mass graded. The area had no BMPs to prevent the discharge of sediment to receiving waters in violation of Order No. 99-08-DWQ.

In summary, the conditions at the construction site observed during the October 29, 2003 inspection reveals that Ashby is not committed to maintaining compliance with the general construction storm water permit.

SUPPORTING  
DOCUMENTS:

(8) Notice of Violation No. R9-2003-0392.

RECOMMENDATION:

The settlement offer presented by Ashby should not be accepted by the Regional Board. A public hearing should be scheduled for a later date to consider the assessment of civil liability for the violations documented at the Roripaugh Ranch construction site.